

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,**

**MICHAEL W. BALDWIN,
Bar No. 012625,**

Mr. Baldwin.

PDJ 2021-9013-PV

**DECISION AND STIPULATED
ORDER OF EXTENDED
PROBATION**

[State Bar No. ~~20-2640-N~~
21-0662-N]

FILED MARCH 31, 2021

Under Rule 60(a)(5)(C), Ariz. R. Sup. Ct. the State Bar monitors and supervises a respondent placed on terms of probation. That rule requires that, “Bar counsel shall report material violations of the terms of probation to the presiding disciplinary judge (“PDJ”) by filing a notice of noncompliance with the disciplinary clerk and serving Mr. Baldwin with a copy of the notice.”

A Notice of Non-Compliance (“Notice”) was filed on March 16, 2021 pursuant to Rule 60(a)(5)(C), Ariz. R. Sup. Ct. The Notice was supported with an affidavit stating sufficient facts to support the allegations of a material violation of the terms of probation.

Having considered the notice with attachments, the PDJ pursuant to Rule 60(a)(5)(C) set this matter for hearing. The purpose for the hearing as stated in Rule 60(a)(5)(C) is “to determine if the terms of probation have been violated and if an

additional sanction should be imposed.” The Chief Justice by Administrative Order authorized and directed the use of technologies to eliminate or limit in-person contact in the conduct of court proceedings. Due to COVID-19 concerns, the hearing proceeded by ZOOM and was audio recorded.

On March 30, 2021, the parties filed a Stipulation of Facts and Exhibits. On March 31, 2021, an approximate twenty-minute Zoom hearing, which was also audio recorded, was held before the Presiding Disciplinary Judge (“PDJ”) with Senior Bar Counsel Craig D. Henley, and self-represented Michael W. Baldwin. At the hearing Mr. Baldwin acknowledged that he entered the stipulation knowingly, intelligently, and voluntarily.

Prefatory Facts

1. On February 19, 2020, Mr. Baldwin was suspended for sixty days in *In re: Michael W. Baldwin*, PDJ 2019-9074 (SB18-2803) for violating Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3, 1.4, 1.5, 8.1(b), 8.4(d) and Rule 54(d), Ariz. R. Sup. Ct. See Decision Accepting Discipline by Consent Final Judgment and Order dated February 19, 2020 in PDJ 2019-9074.

2. As mitigation in the discipline case, Mr. Baldwin submitted a six-page written statement dated February 13, 2020 under seal. See Decision at pg. 3, footnote 2; see also Mr. Baldwin's Written Mitigation Statement at pg. 5.

3. On August 27, 2020, Mr. Baldwin was reinstated to the practice of law in *In re: Michael W. Baldwin*, PDJ 2020-9074-R and placed on probation for two years the terms of which included participation in MAP. See Order of Reinstatement dated August 27, 2020.

4. On December 29, 2020, Mr. Baldwin signed the Terms of Probation agreeing to abstain from alcohol use. [Ex. A.]

The Notice of Non-Compliance

Generally, the Notice alleges that on February 18, 2021, Mr. Baldwin provided a urine sample that tested positive for alcohol in violation of his terms of probation.

The Hearing and Stipulation

Mr. Baldwin concedes and by his stipulation admits the violations as alleged in the Notice. The stipulation of facts and exhibits filed by the parties is incorporated by reference. On January 29, 2021, Mr. Baldwin tested negative for all substances including, but not limited to, alcohol. [Ex. B.]

On February 18, 2021, Mr. Baldwin provided a urine sample that tested positive for alcohol. Exhibit C is a true and accurate copy of Oschmann Test Results dated March 9, 2021. In an email discussion dated March 10, 2021, with Compliance Monitor Yvette Penar, Mr. Baldwin admitted to drinking alcohol before the test. [Ex. D.] On March 12, 2021, Mr. Baldwin provided a blood sample for a PETH test which

yielded a negative test result for alcohol, and negative as to any other drug use. [Ex. E.]

Discussion

This shortfall by Mr. Baldwin is a violation of his probation. Mr. Baldwin has volunteered to take a PETH test each month for as long as is ordered by this Court to ensure that the Bar and the Court has a continuous record of total abstinence in the future. As requested by Mr. Baldwin this court has considered his explanation of the circumstances for the 36-hour period prior to the February 18 test, as is set forth in Exhibit 1. That explanation involves factual statements regarding a third party and personal information about Mr. Baldwin that should not be a part of the public record. The parties stipulate the exhibit should be sealed.

IT IS ORDERED sealing Exhibit 1 attached to the parties' Stipulated Facts and Exhibits.

Mr. Baldwin avowed to the Court that he is acutely aware that his license be in peril if there is another violation of the terms of probation, and stated he will not under any circumstances take any conduct that could cause such violation throughout the remainder of the term of probation. The parties both recommend that the probation of Mr. Baldwin be extended for up to two additional years of probation commencing this date.

General Findings

Under Article VI, Section 3 of the Arizona Constitution, the Supreme Court of Arizona has jurisdiction over the regulation of attorneys licensed in Arizona. Pursuant to Rule 31, Ariz. R. Sup. Ct., any person engaged in the practice of law in Arizona is subject to the jurisdiction of the Court. Pursuant to Rule 46 and 49 Ariz. R. Sup. Ct. any lawyer admitted to practice law in Arizona is subject to the disciplinary jurisdiction of the Court and the authority delegated to the State Bar of Arizona. Pursuant to Rule 51 the PDJ has the authority to impose discipline on an attorney in accordance with the Ariz. R. Sup. Court Rules.

IT IS ORDERED finding that **MICHAEL W. BALDWIN, Bar No. 012625**, has knowingly violated his terms of probation and that an additional sanction is warranted.

IT IS FURTHER ORDERED the probation of **MICHAEL W. BALDWIN, Bar No. 012625**, is extended for up to an additional two (2) years effective March 31, 2021. His present terms of probation are extended for up to two years and shall include that he submits monthly to a random PETH test. Nothing in this order precludes the State Bar Compliance Monitor from requesting either a modification or termination of probation after twelve consecutive months of abstinence from alcohol as determined by a PETH test.

IT IS FURTHER ORDERED awarding costs if any to the State Bar of

Arizona in an amount to be determined.

DATED this 31st day of March 2021.

William J. O'Neil
William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing were emailed
this 31st day of March, 2021, to:

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